

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH V. THOMAS,

Defendant.

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CRIMINAL NO. 08-30055-GPM-06

MEMORANDUM AND ORDER

MURPHY, District Judge:

On December 27, 2011, Kenneth Thomas filed a motion for reduction of his sentence based on the retroactive crack cocaine guideline amendments which were effective as of November 1, 2011 (Doc. 332). He filed an accompanying motion for transcripts (Doc. 331). The Office of the Federal Public Defender was appointed for the purposes of representing Mr. Thomas in his motion for sentence reduction (Doc. 333). Counsel has now moved to withdraw as attorney, citing Mr. Thomas's ineligibility for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (Doc. 336). Counsel informed Mr. Thomas of the pending motion to withdraw, and there has been no response within the time allotted by this District's Local Rules. The Court now **GRANTS** counsel's motion to withdraw and further **FINDS** that Mr. Thomas is not eligible for a § 3582(c)(2) reduction. Mr. Thomas's motion at Doc. 332 is therefore **DENIED** and his motion at Doc. 331 is denied as moot.

The Court embraces the rationale in the Federal Public Defender's motion—Mr. Thomas's poly-drug calculation originally yielded a total offense level of 36, and his poly-drug calculation under the retroactive guideline amendments also yields a total offense level of 36. Mr. Thomas's

guideline range is therefore unchanged, and he is consequently not eligible for a sentence reduction. *See United States v. Taylor*, 627 F.3d 674, 676 (7th Cir. 2010) (“Relief under the statute [18 U.S.C. § 3582(c)(2)] is not available when a retroactive amendment ‘does not have the effect of lowering the defendant’s applicable guideline range.’” *citing* United States Sentencing Guideline § 1B1.10(a)(2)(B)). Counsel’s motion to withdraw is thus **GRANTED** and Mr. Thomas’s motion for a § 3582(c)(2) sentence reduction is **DENIED**.

IT IS SO ORDERED.

DATED: April 26, 2012

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge